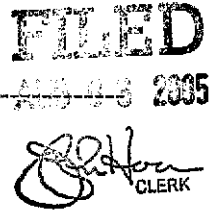


United States District Court

----- DISTRICT OF SOUTH DAKOTA -----  
SOUTHERN DIVISION



UNITED STATES OF AMERICA,

Plaintiff,

vs.

**RECOMMENDED FINDINGS ON  
REVOCATION OF SUPERVISED  
RELEASE**

PETERSON NEAL,

Defendant.

CASE NUMBER: CR. 00-40022

This matter came before the court for hearing upon the Petition to Revoke Supervised Release (Doc. 27) on Wednesday, August 3, 2005. The defendant appeared in person and by his counsel, Assistant Federal Public Defender Bill Delaney, while the United States of America appeared by Assistant United States Attorney, John Ulrich. Based upon the evidence adduced at the hearing, I hereby make the following recommended findings of fact and conclusions of law.

**Findings of Fact**

Defendant is on supervised release pursuant to General, Standard and Special Conditions of Supervised Release as contained in the Judgment in a Criminal Case filed on July 25, 2000 (Doc. 24).

**Allegation Number 3:**

Special Condition No. 10 of the defendant's Conditions of Supervised Release required that "the defendant shall participate in sex offender treatment and submit to polygraph examinations as directed by the probation officer. "

Defendant admitted allegation number 3.

On or about April 20, 2005, at Sioux Falls, South Dakota, the defendant failed to participate in sex offender treatment with Great Plains Psychological Services as directed in violation of the Special Condition No. 10 of the Conditions of Supervised Release.

**Allegations Numbered 1 and 2:**

Allegations 1 and 2 were dismissed on motion of the government and in the interest of justice.

Conclusions of Law

1. Failure to abide by the terms and conditions of supervised release provides a reasonable basis upon which to revoke supervised release.

2. Based upon the factual basis provided by the United States, the United States has proven by a preponderance of the evidence that the defendant has not met the conditions of his supervised release. See *United States v. Cotroneo*, 89 F.3d 510, 512 n.4 (8th Cir.), *cert. denied* 117 S.Ct. 533 (1996) and 18 U.S.C. § 3583(e)(3).

3. After conversing with the defendant personally in open court, it is the finding of the court that the defendant is fully competent and capable of entering an informed admission, that the defendant is aware of the nature of the charges and the consequences of the admission, and that the admission is a knowing and voluntary plea supported by an independent basis in fact containing each of the essential elements of the offense. It is, therefore, my report and recommendation that defendant's supervised release be revoked.

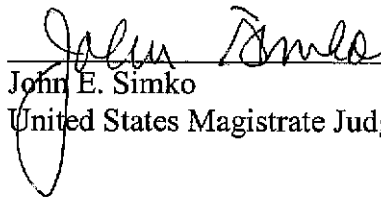
4. The United States Probation Office is hereby directed to prepare and submit to the United States District Court a supplemental pre-sentence investigation within twenty-one (21) days of the date of this report.

Notice to Parties

Any objections to these findings and conclusions must be served and filed within ten days of the date of service of this notice upon you. 28 U.S.C. §636(b)(1). If no objections are filed, the district court may adopt, reject, or modify these findings and conclusions. Moreover, the court may impose an appropriate sentence based upon these findings and conclusions following a hearing.

Dated this 3 day of August, 2005.

BY THE COURT:

  
\_\_\_\_\_  
John E. Simko  
United States Magistrate Judge

ATTEST:  
JOSEPH HAAS, Clerk

By , Deputy  
(SEAL)